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**REMARKS/ARGUMENTS****Amendments to Specification**

Minor editorial corrections have been made in the specification by replacing the paragraph starting on p. 18, line 20.

**Status of Claims**

Claims 1 to 7 and 9 to 23 remain in the application. Claim 8 has been cancelled.

**Claim Amendments**

The preamble of claim 1 has been amended to recite that the partner relay system is "for use in a communication system comprising a first transceiver and at least one second transceiver in which forward link transmissions occur in a downlink direction from the first transceiver to the at least one second transceiver and reverse link transmissions occur in an uplink direction from the at least one second transceiver to the first transceiver" to define directionality of traffic in the partner relay system. Amended claim 1 also incorporates the subject matter of claim 8 in the form "wherein the first wireless transmission resource is a transmission resource allocated for forward link transmissions from the first transceiver, and the second wireless transmission resource is a transmission resource allocated for reverse link transmissions to the first transceiver on the first carrier frequency".

Claims 5, 6 and 12 have been made dependent upon amended claim 13. Claim 12 has also been amended to clarify what is intended by a forward link channel and a reverse link channel in a similar manner to that of claim 1 and to define transmission resources allocated for transmission between the first and third transceivers.

Claim 11 has been amended to recite that the directionality of the second signal is "in the uplink direction". The limitation "wherein the third wireless transmission resource is a transmission resource allocated for reverse link transmissions to the first transceiver on the first carrier and the fourth wireless transmission resource is a transmission resource allocated for forward link transmissions from the first transceiver on the first carrier frequency" has also been

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added to claim 11.

Claim 13 has been rewritten to incorporate the limitations of originally filed independent claim 1 and dependent claim 11.

Claim 22 has been amended in a similar manner to amended claim 1.

Claim 23 has been amended in a similar manner to amended claim 11.

### 35 U.S.C 102 Claim Rejections

Controlling case law has frequently addressed rejections under 35 U.S.C. § 102. "For a prior art reference to anticipate in terms of 35 U.S.C. Section 102, every element of the claimed invention must be identically shown in a single reference." Diversitcch Corp. v. Century Steps, Inc., 850 F.2d 675, 677, 7 U.S.P.Q.2d 1315, 1317 (Fed. Cir. 1988; emphasis added). The disclosed elements must be arranged as in the claim under review. See Lindemann Machinefabrik v. American Hoist & Derrick Co., 730 F.2d 1452, 1458, 221 U.S.P.Q. 481, 485 (Fed. Cir. 1984). If any claim, element, or step is absent from the reference that is being relied upon, there is no anticipation. Kloster Speedsteel AB v. Crucible, Inc., 793 F.2d 1565, 230 U.S.P.Q. 81 (Fed. Cir. 1986; emphasis added). The following analysis of the present rejections is respectfully offered with guidance from the foregoing controlling case law decisions.

The Examiner has rejected claims 1 to 3, 7, 10, 11, 13 to 15, 17, 19 and 21 to 23 under 35 U.S.C. 102(c) as being anticipated by U.S. Patent No. 6,895,218 (Yarkosky).

Amended claim 1 includes the limitation of former claim 8. As conceded by the Examiner in the 35 U.S.C. 103 rejection of claim 8 found on page 7 of the Office Action, Yarkosky does not teach the limitation of former claim 8.

Therefore, Yarkosky does not identically disclose every element of claim 1 as required in an anticipation rejection. Given that claim 1 now has the same scope as claim 8, which is rejected under 35 U.S.C. 103, a detailed discussion of how amended claim 1 (former claim 8) patentably distinguishes over the cited references is presented below where the 35 U.S.C. 103 rejections are dealt with.

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Amended independent claim 22 recites additional limitations similar to that recited in amended claim 1. Claim 22 is not anticipated by Yarkosky for at least the same reasons discussed above with regard to amended claim 1.

Claims 2, 3, 7, 10, 11, 19 and 21 are dependent on claim 1, either directly or indirectly and claim 23 is dependent upon claim 22. These claims are allowable for at least the same reasons as independent claims 1 and 22.

Rewritten independent claim 13 recites the limitations that a "first signal is from the first transceiver to the second transceiver and is relayed via the first relay and then the second relay, said second signal is from the second transceiver to the first transceiver is relayed via the second relay and then the first relay" and "a third signal from the first transceiver to the third transceiver is relayed via the second relay and then the first relay, and a fourth signal from the third transceiver to the first transceiver is relayed via the first relay and then the second relay". Yarkosky discloses the use of two relays, propagation relay (PR) 2 and mobile station interface port (MSIP) 12 between a base station 8 and a mobile station (MS) 16. Yarkosky discloses that signals are transmitted via the relays in a particular arrangement, namely from the base station 8 to PR 2 and then from PR 2 to MSIP 12, before arriving at MS 16. If the first limitation identified above in claim 13 is considered to equate to transmission of a first signal from the base station 8 (first transceiver) to the MS 16 (second transceiver) via the PR 2 (first relay) and then the MSIP 12 (second relay) and the second signal from the MS 16 to the base station 8 via the MSIP 12 and then the PR 2, as alleged by the Examiner, then the second limitation identified above would have to equate to transmission of the third signal from the base station 8 (first transceiver) to a different MS 16 (third transceiver) via the MSIP 12 (second relay) and then the PR 2 (first relay) and the fourth signal from the different MS 16 to the base station 8 via the PR 2 and then the MSIP 12. Clearly, this is not how transmissions are relayed according to the Yarkosky reference. The PR 2 is outside the enclosure (column 3, lines 55-56) and receives the signal from the base station 8 before the MSIP 12 receives the signal. There is no suggestion or disclosure in Yarkosky that the MSIP 12 would receive the signal from the base station 8, transmit the signal to the PR 2 and the PR 2 would then transmit the signal to the MS 16. Therefore, Yarkosky does not disclose "relaying signals between a first transceiver and a second transceiver and relaying

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signals between first transceiver and a third transceiver; wherein said first signal is from the first transceiver to the second transceiver and is relayed via the first relay and then the second relay, said second signal is from the second transceiver to the first transceiver is relayed via the second relay and then the first relay; wherein a third signal from the first transceiver to the third transceiver is relayed via the second relay and then the first relay, and a fourth signal from the third transceiver to the first transceiver is relayed via the first relay and then the second relay" as recited in claim 13.

Yarkosky does not identically disclose every element of claim 13 as required in an anticipation rejection. Applicant respectfully submits claim 13 is allowable.

Claims 14, 15 and 17 are dependent on claim 13. Those claims are allowable for at least the same reasons as claim 13.

Applicant respectfully requests that the Examiner reconsider and withdraw the anticipation rejection of claims 1 to 3, 7, 10, 11, 13 to 15, 17, 19 and 21 to 23.

### **35 U.S.C 103 Claim Rejections**

The requirements for establishing a *prima facie* case of obviousness as set out in the MPEP Section 2143.01 require that the reference or references when combined teach all of the claimed limitations, that there be a reasonable expectation of success in realizing the claimed invention, and that there be a motivation to combine the references.

The Examiner has rejected claims 4 to 6 and 12 under 35 U.S.C. 103(a) as being unpatentable over Yarkosky in view of U.S. Patent No. 6,985,716 (Talaie).

Claim 4 is dependent upon amended claim 1. As discussed above, Yarkosky does not disclose all the features of amended claim 1 as relied upon by the Examiner. Applicant submits that Talaie does not disclose the features missing from Yarkosky.

Amended claims 5, 6 and 12 are now dependent upon newly rewritten independent claim 13. As discussed above with regard to the anticipation rejection of claim 13, Yarkosky does not disclose that the MSIP 12 is operable to receive traffic from the base station 8, retransmit the

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traffic to the PR 2 and then the PR 2 transmit the traffic to the MS 16 in the enclosure. Therefore, Yarkosky does not disclose "relaying signals between a first transceiver and a second transceiver and relaying signals between the first transceiver and a third transceiver; wherein said first signal is from the first transceiver to the second transceiver and is relayed via the first relay and then the second relay, said second signal is from the second transceiver to the first transceiver is relayed via the second relay and then the first relay; wherein a third signal from the first transceiver to the third transceiver is relayed via the second relay and then the first relay, and a fourth signal from the third transceiver to the first transceiver is relayed via the first relay and then the second relay" as recited in claim 13. As Talaie does not disclose the features missing from Yarkosky, Applicant submits that Yarkosky and Talaie, alone or in combination, do not teach all the limitations of claims 5, 6 and 12.

As the combination of Yarkosky and Talaie does not teach all the limitations of claims 4 to 6 and 12, at least one requirement for a *prima facie* case of obviousness is not satisfied.

Applicant notes that Section 2143.01 of the Manual of Patent Examining Procedure (MPEP) sets out three possible sources of motivation to combine references, namely A) the nature of the problem to be solved, B) the teachings of the prior art, and C) the knowledge of persons of ordinary skill in the art. It is respectfully submitted that the Examiner has not established a motivation to combine the references from any one of the three sources.

The Examiner has stated that the motivation in combining Yarkosky and Talaie is "in order to increase capacity (Col. 3, lines 59-67)". Applicant submits that the Examiner has failed to satisfy the onus of identifying any of the three possible sources for a motivation to combine in such a generic statement and thus the requirement to establish motivation to combine references for establishing a *prima facie* case of obviousness has not been satisfied for claims 4 to 6 and 12.

For at least the above-discussed reasons, it is respectfully submitted that the Examiner has erred in combining Yarkosky and Talaie in an attempt to establish a *prima facie* case of obviousness. The Examiner is respectfully requested to withdraw the 35 U.S.C. 103(a) rejection of claims 4 to 6 and 12.

The Examiner has rejected former claim 8 under 35 U.S.C. 103(a) as being unpatentable

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over Yarkosky in view of U.S. Patent No. 6,125,109 (Fuerter). Amended claim 1 now has the same scope as former claim 8.

The Examiner states that Yarkosky fails to teach a reverse link channel, but alleges that Fuerter teaches a second wireless transmission resource comprising a reverse link on the first carrier frequency (col. 11, lines 26-29).

Applicant respectfully submits that the limitations identified by the Examiner in Yarkosky and Fuerter as being equal to the limitations of former claim 8 do not include all of the limitations recited in former claim 8, which is now amended claim 1.

Amended claim 1 now more clearly recites the intention of original claim 8, which is forward link transmissions occur in a direction from a first transceiver to at least one second transceiver and reverse link transmissions occur in a direction from the at least one second transceiver to the first transceiver. Furthermore, amended claim 1 recites that "the first wireless transmission resource is a transmission resource allocated for forward link transmissions from the first transceiver, and the second wireless transmission resource is a transmission resource allocated for reverse link transmissions to the first transceiver".

Yarkosky discloses that a downlink frequency is used from the base station 8 to PR 2 and the downlink frequency is converted to an intermediate downlink frequency for signal transmission from PR 2 to MSIP 12. The intermediate downlink frequency is converted back to the downlink frequency for signal transmission from MSIP 12 to MS 16 (col. 4, lines 10-58). Yarkosky does not suggest that the intermediate downlink frequency could be a transmission resource allocated for reverse link transmissions as recited in amended claim 1.

With regard to Fuerter, in the particular section referred to by the Examiner, column 11, lines 26 to 29, a second carrier beam is disclosed to have its own forward power amplifier 106b and reverse power amplifier 102b as indicated in Figure 6. The additional power amplifiers used for a second carrier beam are used in conjunction with the forward power amplifier 106 and reverse power amplifier 102 for a first carrier beam as illustrated in Figure 5. This is simply a disclosure of components enabling the use of a second carrier frequency for forward and reverse path traffic. There is no suggestion or disclosure in Fuerter that a reverse link channel on a first

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carrier frequency is used for a forward link transmission.

For at least the above reasons, applicant submits that neither Yarkosky nor Fuerter, either alone or in combination teach all the limitations of amended claim 1. As the combination of Yarkosky and Fuerter does not teach all the limitations of amended claim 1, at least one requirement for a *prima facie* case of obviousness is not satisfied.

The Examiner has stated that the motivation in combining Yarkosky and Fuerter is "in order to improve diversity (Col. 2, lines 15-21)". Applicant submits that the Examiner has failed to satisfy the onus of identifying any of the three possible sources for a motivation to combine in such a generic statement and thus the requirement to establish motivation to combine references for establishing a *prima facie* case of obviousness has not been satisfied for amended claim 1.

For at least the above-discussed reasons, it is respectfully submitted that the Examiner has erred in combining Yarkosky and Fuerter in an attempt to establish a *prima facie* case of obviousness. The Examiner is respectfully requested to withdraw the 35 U.S.C. 103(a) rejection of amended claim 1.

The Examiner has rejected claims 9, 18 and 20 under 35 U.S.C. 103(a) as being unpatentable over Yarkosky in view of U.S. Patent No. 6,4005,925 (Tirabassi).

Claim 9 is dependent upon amended claim 1. Claim 18 is dependent upon rewritten claim 13. Claim 20 is dependent upon claim 19. As discussed above, Yarkosky does not disclose all the features of any of amended claim 1, written claim 13 or claim 19 as relied upon by the Examiner. Applicant submits that Tirabassi does not disclose the features missing from Yarkosky.

As the combination of Yarkosky and Tirabassi does not teach all the limitations of claims 9, 18 and 20, at least one requirement for a *prima facie* case of obviousness is not satisfied.

The Examiner has stated that the motivation in combining Yarkosky and Tirabassi is "in order to meet performance requirements (Col. 2, lines 30-39)". Applicant submits that the Examiner has failed to satisfy the onus of identifying any of the three possible sources for a motivation to combine in such a generic statement and thus the requirement to establish

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motivation to combine references for establishing a *prima facie* case of obviousness has not been satisfied for claims 9, 18 and 20.

For at least the above-discussed reasons, it is respectfully submitted that the Examiner has erred in combining Yarkosky and Tirabassi in an attempt to establish a *prima facie* case of obviousness. The Examiner is respectfully requested to withdraw the 35 U.S.C. 103(a) rejection of claims 9, 18 and 20.

The Examiner has rejected claim 16 under 35 U.S.C. 103(a) as being unpatentable over Yarkosky in view of U.S. Patent Publication No. 2004/0033796 (Remy).

Claim 16 is dependent upon rewritten claim 13. As discussed above, Yarkosky does not disclose all the features of any of rewritten claim 13 as relied upon by the Examiner. Applicant submits that Remy does not disclose the features missing from Yarkosky.

As the combination of Yarkosky and Remy does not teach all the limitations of claim 16, at least one requirement for a *prima facie* case of obviousness is not satisfied.

The Examiner has stated that the motivation in combining Yarkosky and Remy is "in order to reduce cost (Section 0022)". Applicant submits that the Examiner has failed to satisfy the onus of identifying any of the three possible sources for a motivation to combine in such a generic statement and thus the requirement to establish motivation to combine references for establishing a *prima facie* case of obviousness has not been satisfied for claim 16.

For at least the above-discussed reasons, it is respectfully submitted that the Examiner has erred in combining Yarkosky and Remy in an attempt to establish a *prima facie* case of obviousness. The Examiner is respectfully requested to withdraw the 35 U.S.C. 103(a) rejection of claim 16.




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In view of the forgoing, early favorable consideration of this application is earnestly solicited.

Respectfully submitted,

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